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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,110	07/23/2003	Vladan Mijailovic	AD#-155	8967
23658	7590	11/23/2007		
RICHARD K THOMSON, ATTORNEY 7691 FAIRLANE DRIVE FAIRVIEW, PA 16415			EXAMINER STERLING, AMY JO	
			ART UNIT 3632	PAPER NUMBER
			MAIL DATE 11/23/2007	DELIVERY MODE PAPER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/626,110
Filing Date: July 23, 2003
Appellant(s): MIJAILOVIC, VLADAN

MAILED

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GROUP 3600

Richard K. Thomson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/16/07 appealing from the Office action mailed 12/13/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6119995	REESE et al.	09-2000
6729778	Wu et al.	05-2004

4953852

DONAHUE

9-1990

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

Claims 1-8 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not specifically address as to what is meant by "at all times" in such a way that one of ordinary skill may make or use the invention.

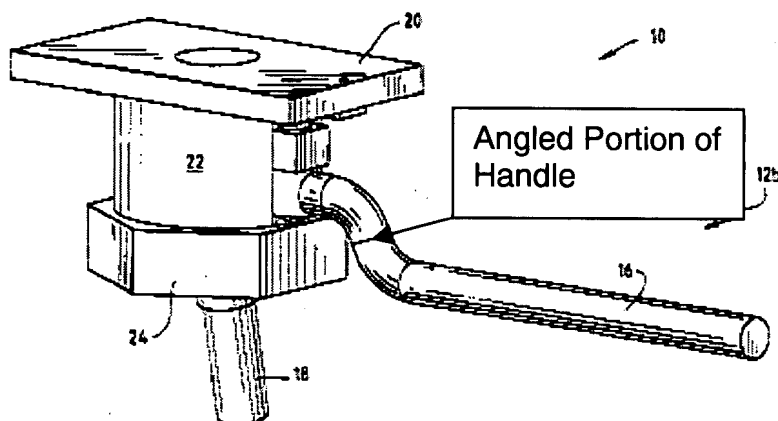
Claims 1-8 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites, "at all times" and it is unclear what is meant by "times" and it is unclear how a "timing" pertains to the structure of the device.

Claim Rejections - 35 USC § 103

Claims 1-4, 6-8 stand rejected under 35 U.S.C. 103(a) 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6119995 to Reese et al. and in view of United States Patent No. 6729778 to Wu et al.

The patent to Reese et al. discloses a camera steady device (10) having a support platform (20) and a support shaft (16a, 18) connected to the bottom surface of the platform, having a first upper portion (16a), and a separate second lower portion (18), the first and second shafts being positionable within 60 degrees relative to each other and a locking mechanism (24) to lock them in place, a sphere (30) affixed to the upper portion of the support shaft (16a, 18) a socket with a handle (32a, 32b, 16) which has a straight portion and an fifteen degree angled portion (See Drawing Below), the socket which is permitted to freely pivot about the sphere, a range of plus or minus 60 degrees about a roll and pitch axis and plus or minus 360 degrees about a yaw axis by being, the socket which has a first upper plate (32b) with a first downwardly directed truncated spherical recess and a second lower plate (32a) with a second upwardly directed truncated spherical recess, the recesses which pivotally captures the sphere (30).



Reese does teach a counterbalanced socket plate member connected to a bottom portion of the support shaft and a means attachable to socket plate to by which the support platform is suspended or a and means (48) for attaching a video camera.

Wu et al. shows a camera steady device for a video camera (60) and a means for attaching (341) the camera, which has a sphere attached to a support shaft (20) which has a counterbalancing socket plate member (12) connected to a bottom portion of the support shaft (20) and a means (13) attachable to socket plate to by which the support platform is suspended, used to firmly hold the video camera to the device and to suspend the device from a support surface. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Wu et al. to have added these things to the device of Reese et al. in order to firmly attach the camera to the device and to suspend the device from a support surface.

Claim 5 stands rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6513774 6119995 to Reese et al. and in view of United States Patent No. 6729778 to Wu et al. as applied to claims 1 and 4 above, and in view of United States Patent No. 4953852 to Donahue.

Reese et al. and Wu et al. disclose applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show that the sphere is made of Teflon.

Donahue shoes a joint having a sphere (62) that is made of Teflon, used for its low frictional properties (See Col. 6, lines 20-24 for material selection). Therefore, it

would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Donahue to have made the sphere of Teflon in order to have a low friction joint.

(10) Response to Argument

The applicant has argued that the rejections under 35 USC 112, first and second paragraphs is improper as pertaining to the limitation that the socket plate is “freely pivoting at all times”. (See Claim 1, lines 7 and 8 for limitation, Appeal Brief pages 2 and 3 generally for argument). The applicant further states that although the limitation does not appear in the specification, that the structure pertaining to the limitation is described and therefore, the rejection under 35 USC 112, first and second paragraphs is improper. And in an attempt to further clarify the meaning of the ambiguous terminology, the applicant further recites that the “Appellants platform is maintained in a horizontal by a counterweight system and not by a locking device. It is free to pivot...” (See Appeal Brief, page 3, lines 12-13)

These arguments are unpersuasive in that the 35 USC 112 requires that the device be described in such a way as to enable one of ordinary skill in the art to make or use the device and it requires the claims to be clear and definite. The claim language “free pivoting at all times” meets neither one of these standards in that, it alludes to the “timing” of an event that has not been described by the specification in such a way as to understand that standard. Also, the timing itself seems ambiguous and unclear

because applicant's stand cannot be freely pivoting when the stand is not being operated by a user and therefore the language "pivoting at all times" has only functional or user related meaning.

The applicant has further argued that the combination of Reese et al. and Wu do not show that the device can be freely pivoting...at all times because the Reese et al reference teaches a pivoting member with a locking device.

Even if the limitation is not rendered ambiguous and unclear, the Reese et al. reference clearly teaches the limitation because the Reese et al. device is freely pivoting when the locking device is unlocked. Further, "at all time" portion of the claim appears to be referring to the "use" or "function" of the device and the Reese et al. device is capable of "freely pivoting" as a "use" of the device. Therefore, the rejection under 35 USC 103 is proper and should be upheld.

(11) Related Proceeding(s) Appendix


No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Amy J. Sterling
11/13/07

Conferees:
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